

## FEATURES OF CONSTITUTIONAL PRINCIPLES IN CRIMINAL PROCEEDINGS OF THE AZERBAIJAN REPUBLIC FACES

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### **Abstract**

It is known that along with the change in social life, the values that have taken shape in a person change the essence of social relations. This, in turn, leads to certain changes in the form and nature of criminal proceedings. Thus, opinions are expressed on the need to change the legal norms that ensure the legal regulation of new and amended issues and principles of the criminal process. In this article, the main advantage of a legal act is that it acts, immediately responding to changes.

The article analyzes the main trends of the constitutional legal regulation of criminal proceedings and sets out specific ideas for improving legislation in this area.

Criminal procedure law contains legal norms governing criminal procedure legal relations. According to the theory of law, criminal procedural legal relations can be considered in two ways: broad and narrow. In a broader sense of legal relations, the form of special social interaction is understood objectively before the law. In the narrow sense of the word "legal relations" is understood as one of the types of social relations established by law.

**Keywords:** criminal procedure, judicial proceedings, justice, personality rights, procedural sanctions, procedural form, constitutional principles

It is known that it is known in the world. The Criminal Code. It is not a question of whether or not the issues are voiced. It is a legal act.

It is important to note that it's not a matter of course.

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The principles of criminal proceedings are significant and leading provisions, which is reflected in the legal norms of criminal procedure law. But in general, it should be noted that the principles of criminal procedure - unlike other criminal procedure rules, a crime of a general and decisive nature - are procedural norms, they acquire concreteness, accuracy of various institutions of the criminal process and more specific procedural norms related to its various stages. Principles of the criminal process are important determining for all procedural forms and institutions and reflect more significant features and aspects of the criminal process.

Based on the basic law of the state - the constitutional basis and enshrined as the guiding rules of the criminal process, the principles of criminal procedure giving a special order to the existence of procedural relations, at the same time also dictates the basic elements of the procedural legal status of the individual, in unity with other legal means express it in clear form .

First of all, it should be noted that during the determination of the principles of the criminal process, attention should be directed not only to the forced subjects of the criminal process - the settlement of legal relations between the persons representing the bodies conducting the criminal prosecution, but also to the defense. The strategic regulation of procedural relations between senior officials and individuals (citizens), regardless of their will, for one reason or another, involved in the sphere of criminal proceedings is also important. In this sense, the principles of the criminal process, first of all , should reflect on the basis of what rules or in what form the “appeal” is made by the state body that conducts the criminal prosecution with the subject of the defense party (4, p. 21).

Criminal procedural legislation defines common for all subjects of the criminal process and specific rights and obligations for an individual subject. The Criminal § rotsessualnomo Code of Azerbaijan Republic the status of all stakeholders, including the rights and obligations are defined by their names mentioned in some articles. Virtually all participants use the same method: their rights and obligations itemize and listed the rights and obligations than those listed in those paragraphs, certain other norms of the Criminal Code, § rotsessualnomo. The latter are reflected in the norms defining the principles of criminal proceedings and the provisions governing the individual stages of the process. But in general, as noted, the current number and environment of the principles hinders the creation of same-sex in defining the rights and duties of the participants in the process. Thus, they are either given directly or expressed in other specific form or the outcome so I'm on the importance of the rules governing the various procedures, investigative actions with the participation of the subject, etc.

Now let's pay attention to the characteristics of individual principles of criminal proceedings. This is the principle of respecting the honor and dignity of an individual , the principle of ensuring the right to privacy of a person, the principle of presumption of innocence, the principle of objectivity, impartiality and fairness of criminal proceedings, the principle of ensuring human and civil rights and freedoms enshrined in the Constitution, comprehensive, complete and objective investigation of the circumstances of the case and principles of transparency in criminal proceedings.

As it was noted, the first of these principles is the principle of respect for the honor and dignity of the individual , the said principle as well as some principles have a constitutional basis. Thus, Article 46 of the Constitution of the Republic of Azerbaijan states that everyone has the right to protect his honor and the dignity of the individual is protected by the state. Nothing can serve as a basis for the humiliation of the dignity of the individual. At the same time, in the 3rd paragraph of this article it is noted that no one can be subjected to torture and torture. No one may be subjected to treatment or punishment degrading human dignity (1). The noted principle is recognized as the natural rights of people. Human honor and dignity is considered the highest human value of law. According to the "World Dekloratsiey Human Rights" of the United Nations on 10 December 1948, and between at the national Pact "On Civil and Political Rights" dated December 16, 1966, at the same

time identified by the European Convention "On the protection of human rights and fundamental freedoms" the right to respect for personal and family life notes that everyone has the right to protection of honor and dignity, nothing can serve as a reason for the humiliation of a person's dignity. In criminal law, the direct object of a crime is the honor, dignity and business reputation of another person. Honor is a public assessment of a person, as a member of society, determined by moral, spiritual, cultural qualities, for his attitude to other individuals, the state and society. Honor is a public assessment of a citizen, as a member of society, about its social aspects, moral qualities. Thus, once again it became clear that the concept of honor is connected with the evaluation of the personality by society from the point of view of its spiritual qualities. Even in the Plenary Decree of the Supreme Court of the Republic of Azerbaijan "On the practice of the application of legislation on the protection of honor and dignity by courts" dated May 14, 1999, it is based on the fact that the right to protection of honor and dignity is a constitutional right to explain to the courts that Interested persons to defend their honor and dignity may file a lawsuit directly in court without any initial appeal for a denial in the media (7). Sure that This principle must be ensured not only by the courts, but also by the primary investigation authorities.

Another principle is ensuring the right to privacy. In connection with the value of this principle should be noted that before the European Court of Human Rights cases against Azerbaijan revealed violations, mostly coming from noncompliance I Call th National legislation on the use of the arrest warrant in the judicial practice, the wrong - based on modern video sending Interpretation criminal, etc. of procedural rules and, in some cases, the gaps and inconsistencies in the regulation of application of the arrest warrant. The 1st paragraph of the 5th article of the European Convention requires that any deprivation of liberty should correspond to the purpose of the 5th article, that is, should correspond to the purpose of the principle of protection of persons from arbitrariness. In this case, the significant question is not only the "right of freedom" of the individual, but also the "right of immunity". The person "against whom deportation or extradition measures were applied" and the arrest falling under the first ( f ) clause of the fifth article in the Garayev v. Azerbaijan case (Garayev v. Azerbaijan) the Court noted that in the absence of clear legislation in the national law of the legal norms governing the sentencing of an arrest, the terms of detention and the extension of this term "for extradition", the deprivation of liberty of Garayev did not meet the standards of "quality of law" required by the Convention, and accordingly this deprivation was considered a violation of Article 5 ( f ) (eight). From the above case, it follows that the national legal system could not protect the applicant from unjustified imprisonment, because there was no legal norm regulating the procedure for detention pending extradition, foreseeing the consequences (6, p.5) .

Prezum n tion of innocence is one of the important principles of criminal justice and neo b walk to note that this principle is reflected in our Constitution. Importance prezum n tion innocence organ carrying primary consequence - investigator Attorney etc. It is that one of the requirements of the "n prezum n tion of innocence" during the criminal proceedings before the Court - it is a full and thorough investigation into the circumstances of the case. At the same time, attention should be paid to one issue that this principle provides broad rights for the defendant's self-defense and violation of this provision by the investigator or prosecutor, that is, requiring proof of innocence from the defendant is contrary to the essence of this principle (for example, requiring an alibi and .d.)

With regard presumption of innocence European Court of Human Rights on the merits it has determined that the members of the court in the performance of its powers must not protrude from the position that the defendant is guilty of a crime in which he is accused. In this regard, the right of the last word belongs to the verdict of the court. Due to claim presumption innocence MS Strogovich notes that the importance of presumption of innocence as an objective legal position is that innocent face protection against unreasonable charges and were sentenced without a full and indisputable confirmation of guilt without prejudice (2, s.396).

Courts in the proceedings are required to review court cases and materials relating to the prosecution only on the basis of the facts relevant legal procedures reflected in the appropriate form in the Criminal § rotsessualnom Code of Azerbaijan Republic, impartially and fairly. Naturally, we are talking about the principle of objectivity, impartiality and fairness of criminal proceedings. The criminal process is conducted in such a way that here at each current stage there is the possibility of checking the decisions taken and the actions taken at the previous stage. This is an important condition for ensuring the interests of law and the law.

However, the structure of the process or the landmark structure does not answer the question what and how exactly the interests of law and law are ensured. The fact is that every action and decision taken at the process can be appealed by the participants of the process, and the duty of the prosecutor or the court, in the presence of such a complaint or absence, to verify that the case was thoroughly, fully and impartially investigated. It is this duty that characterizes the provision of this principle. It should also be noted that the rights and duties inherent in the court allow for the implementation of effective quality control of the primary investigation. In addition, we note that the impartiality of the court requires refraining from accepting any party; impartiality, being subjective and objective, is divided into two categories - subjective impartiality is the personal impartiality of the judge, in such cases the legislation provides a mechanism of "objection to the judge". But, a biased judge must be proven. Otherwise, the attitude of the judge is considered impartial. And objective impartiality requires that there be no objective cases, facts that determine the judge's biased attitude. If such cases are present, it is possible to consider the judge's objective bias in the case. For example, if the defendant has a specific connection with the judge leading the case, then there is an objective bias. In national law and for such cases, an objection mechanism is used. The fact that the mechanism and objections in the national legislation for the European Court is not a violation of the just judicial law (5, p.140).

The scientist MA Jafarkuliev believes that the principle of a comprehensive, complete and objective investigation of cases of a case combines three significant provisions of the criminal process.

A) Completeness - identification of all cases significant for the correct solution of the case;

C) Comprehensiveness - making and checking all possible assumptions related to the case, checking all cases and exposing and justifying the accused, facilitating and burdening his responsibility, crime - meaningful from the point of view of the law, determining the incident under investigation as it was in fact, etc.

C) Objectivity - investigation of the actions of the case, as it was in fact impartial and accurate, and making a decision fully corresponding to the revealed objective facts (3, p.156-157).

We can conclude that reduced to separate legal areas, concretized and conditions of implementation defined by the Constitution, all the fundamental rights and freedoms of a person are also determined in the field of criminal procedure. The main features of these rights in criminal Playback session consists in the fact that they are not directly implemented by the parties of criminal proceedings participants, this requires action preamp m otrennyh law bodies carrying out the process. Therefore, ensuring the rights of persons in the field of criminal proceedings to a greater extent depends not on the personal initiative of the participants in the process, but on the activities of the bodies leading the process. In this regard, following the basics of applying procedural, compulsory actions is the main condition for ensuring individual rights. These basics are provided for in article 147 defining n USAGE arrest in criminal proceedings article 155 defining a base of restraint measures article 176 determines rinuditelnye n measures used for the production proceedings, and individual articles determining specific conditions etc. and forcibly procedural steps Criminal Procedure Code . From the point of view of ensuring the legal and legal interests of persons involved in the criminal process, strict adherence to the procedures of the law when applying specific enforcement actions is of particular importance. Following such procedures on the one hand, if it leads to the desired result, on the other hand, does not exclude coercion, provides coercion to a degree serving the duties of criminal prosecution. Compliance with procedural law enforcement action applied to a suspect or an accused depends on the legality and validity of the suspicion or the charges at a particular person. Unfounded suspicion or accusation automatically makes ungrounded procedural primitive actions. Therefore, the procedural bodies should pay serious attention when conducting a detention or arrest characterized by special urgency, otherwise there can be no question of the principles of ensuring the rights and freedoms of man and citizen. Let's take a little longer extend this idea to the finder s reflected in the Criminal prtsexualnom Code of the principle of the rights and freedoms of man and citizen , is also the leading idea of providing a basic right as a human being - Cellar p voltage tortured and n lohomu treatment, exposure to inhuman punishment or the punishment degrading. Even on the basis of the importance of this principle in the case of Aksoy v. Turkey (December 18, 1996, the person was a member of a terrorist organization and during interrogation was subjected to constant torture by the bodies conducting the initial investigation), the European Court of Human Rights ruled that "Even in the most difficult of circumstances, for example, in the fight against organized crime and terrorism , the Convention prohibits torture, inhuman treatment and treatment diminishes its worth, and insists that even if the person committed these crimes, his basic principles and freedoms should be provided " (9).

The openness of criminal proceedings proceeds from the part 127 of the Constitution of the Azerbaijan Republic expressed from the V part. In accordance with the requirements of the article, in all courts the proceedings must be open. Consideration of the case in closed behind with edanii may be allowed only in the case if the supposedly open court proceedings may result in disclosure of state, professional and commercial secrecy, or by the need to Saved and neniya secrecy of private or family life of citizens. But here it is necessary to note one question. As reflected in the Law "On Courts and Judges" to "In all cases, decisions of the courts must be open on the s manifested "in our opinion is contrary to the requirements of the principle of openness. This question we want to explain prospect of stym example. Suppose that a rape case was considered in a closed court hearing and a decision was made on the case.

Naturally, there is nothing illegal here, but if we take into account what and as it was stated above, there is a provision in the legislation “the decision of the courts is openly announced” reflecting the essence of the principle of openness, in this case we want to emphasize one nuance. If people have the opportunity to get acquainted with at least part of the result of a decision made by the court (in practice there are even cases of complete announcement of the decision), the question arises if the case is considered closed, then why is the result openly announced?

If the goal is to keep the secret associated with personal or family life, we consider it expedient stipulated by the legislation that would be a rescheniem Court conected closed meetings had the opportunity to review a closed circle of persons.

### References

1. Constitution of the Republic of Azerbaijan. Baku: “Hüquq Yayın evi”, 2017, 92 p .
2. Comments on the Criminal Procedure Code of the Republic of Azerbaijan : duties, basic principles and conditions of criminal prosecution. Baku : Ganun 2004, 770 p .
3. Jafarguliyev M. Criminal Procedure of the Republic of Azerbaijan . II edition . Tutorial . Baku: Ganun, 2005, 852 p .
4. Gafarov M.S. Ensuring individual rights in the criminal process of the Azerbaijan Republic. Baku: Ganun, 2006, 248 p.
5. Mehtiyev F. Human Rights in Theory and Practice. Tutorial. Baku, 2013, 405c.
6. Odzhagverdiyeva N. Analysis of decisions against Azerbaijan related to the detection of violations of Article 5 of the Convention. Baku, 2009, 12c.
7. Plenum decision and the Supreme Court of the Republic of Azerbaijan " On application of defamation laws by the courts" , May 14, 1999
8. Case of Garayev v. Azerbaijan 53688/08 - <http://hudoc.echr.coe.int/eng?i=001-99218>
9. <http://hudoc.echr.coe.int/eng?i=001-58003> ( Aksoy v. Turkey , decision of 18 December 1996 the year ) .